

# West Virginia Department of Agriculture

Kent A. Leonhardt, Commissioner  
Joseph L. Hatton, Deputy Commissioner



July 15, 2019

Tawanda Maignan, Team Leader  
Emergency Response Team  
U.S. EPA Office of Pesticide Programs  
Document Processing Desk (EMEX)  
Room S4900, One Potomac Yard  
2777 Crystal Drive  
Arlington, VA 22202

RE: Recertification Request for Section 18 Emergency Exemption for the use of bifenthrin to control Brown Marmorated Stink Bug (BMSB)  
Brigade WSB Insecticide, EPA Reg. No. 279-3108  
Bifenture 10DF, EPA Reg. No. 70506-227  
Bifenture EC, EPA Reg. No. 70506-57

The West Virginia Department of Agriculture (WVDA) is applying for a repeat section 18 specific exemption for the use of bifenthrin on pome and stone fruit to control Brown Marmorated Stink Bug (BMSB) in West Virginia in 2019. This is a repeat request of the application submitted and approved in 2018. I hereby certify that data provided in support of the original 2013 exemption request remains valid.

West Virginia University Extension Service has provided support as part of the work group and is in support of this request - please see attached letter. The availability of bifenthrin will be helpful for growers in their efforts to control this invasive pest.

Two manufacturers have provided support for the use of the active ingredient bifenthrin. Specifically, Brigade WSB Insecticide (EPA Reg. No. 279-3108) produced by FMC Corporation, and Bifenture 10DF (EPA Reg. No. 70506-227) and Bifenture EC (EPA Reg. No. 70506-57) produced by UPL NA Inc. are requested for registration under FIFRA Section 18 Emergency Use Exemption for use on pome and stone fruit for the control of BMSB in all counties in West Virginia. Please see the attached letters of support and draft copies of Section 18 Emergency Exemption Use Directions from each manufacturer.

West Virginia does not currently gather use data from pesticide applicators, so sales data from the registrants is employed to estimate usage of pesticides in the state under Section 18 Emergency Exemptions. Tim Formella of FMC reported that no Brigade WSB was sold in West Virginia in 2018 but was unable to determine if any had been applied. Crystal Layton of UPL reported that since their products are sold via distributors, they are unable to provide data for these products.

mailing address: 1900 Kanawha Blvd. East, Charleston, WV 25305-0170

physical address: 217 Gus R. Douglass Lane, Charleston, WV 25312

telephone: 304-558-3550 • fax: 304-558-2203

[www.agriculture.wv.gov](http://www.agriculture.wv.gov)

There should be no adverse effect to endangered species in West Virginia due to the use of this product. As with any emergency exemption registration, the use of this product will be monitored, including an evaluation of potential impact on endangered species.

I will be awaiting your decision on this Section 18 Specific Exemption request for the use of bifenthrin on pome and stone fruit to control Brown Marmorated Stink Bug in West Virginia. If you should have any questions regarding this request, I may be reached at 304-558-2209 or [gbishop@wvda.us](mailto:gbishop@wvda.us).

Sincerely,



Grant Bishop  
Assistant Director  
Regulatory and Environmental Affairs Division  
Pesticide Regulatory Programs

cc: Dr. Daniel Frank, WVU

Attachments:

1. Letter of Authorization from Tim Formella, FMC.
2. Draft label for Brigade WSB Insecticide.
3. Letter of Authorization from Crystal Layton, UPL NA Inc.
4. Draft label for Bifenture EC and Bifenture 10DF
5. Letter of support from West Virginia University



Grant Bishop  
Assistant Director  
Regulatory and Environmental Affairs Division  
Pesticide Regulatory Programs Unit  
West Virginia Department of Agriculture  
1900 Kanawha Boulevard, East  
Charleston, WV 25305-0190

July 1, 2019

Re: Brown Marmorated Stink Bug – Section 18 Emergency Exemption

Dear Mr. Bishop,

I am writing this letter to express my support for your request to the EPA to approve an emergency exemption for the use of insecticides containing the active ingredients bifenthrin and dinotefuran to control brown marmorated stink bug (BMSB) on stone and pome fruit in West Virginia.

As you know, apple and peach are grown on approximately 5,750 acres in West Virginia with an estimated annual revenue of over \$23 million. The leading fruit producing counties in the state are Berkeley, Hampshire, Jefferson, and Morgan. BMSB continues to pose a threat to tree fruit production in the state and growers have few options available for its management. The addition of the insecticide bifenthrin (Brigade) and dinotefuran (Scorpion, Venom) would be beneficial for West Virginia growers because it provides additional products with different active ingredients to effectively manage BMSB.

I thank you for your efforts and attention to this matter. If I can be of further assistance please feel free to contact me.

Sincerely,

Daniel L. Frank  
Entomology Extension Specialist  
& Associate Professor  
West Virginia University

dlfrank@mail.wvu.edu  
Office: 304-293-8835  
Fax: 304-293-6954

Dr. Daniel Frank, Assistant Professor and Extension Specialist  
WVU Extension Service  
Agriculture and Natural Resources Unit  
3308 Agricultural Sciences Building, 333 Evansdale Dr.  
P.O. Box 6108  
Morgantown, WV 26506-6108 USA

Equal Opportunity/Affirmative Action Institution



**FMC Corporation**  
2929 Walnut Street  
Philadelphia, PA 19104  
USA

215.299.6000  
fmc.com

June 6, 2019

Peggy K. Powell  
West Virginia Department of Agriculture  
Pesticide Regulatory Programs  
1900 Kanawha Blvd., East  
Charleston, WV 25305

RE: Section 18 Letter of Support

Dear Ms. Powell:

As the registrant for Brigade WSB insecticide/miticide (EPA Reg No. 279-3108), FMC fully supports the proposed renewal of a Section 18 emergency exemption use of this product in West Virginia on apple, peach, and nectarine to control the Brown Marmorated Stink Bug (*Halyomorpha halys*).

FMC is committed to working with IR-4 in their program to obtain Section 3 registrations for use of bifenthrin on pome and stone fruit. IR-4 conducted field magnitude of the residue trials on apple (PR 11016) and peach (PR 11017) in 2013 and submitted tolerance petitions for these new uses to US EPA in June 2016. An Agency decision on these uses was expected in March 2019, but the EPA requested an 18-month extension of the PRIA date as they continue with the registration review process for the active ingredient bifenthrin. The new PRIA date for the IR-4 submission is now September 25, 2020.

Please contact me by telephone at 215-299-6717 or by email at [tim.formella@fmc.com](mailto:tim.formella@fmc.com) if you have any questions on this matter.

Sincerely,

Timothy M. Formella  
Senior Product Registration Manager  
FMC Corporation

## RESTRICTED USE PESTICIDE

Toxic to fish and aquatic organisms.

For retail sale to and use only by certified applicators or persons under their direct supervision, and only for those uses covered by the certified applicator's certificate

**BRIGADE**<sup>®</sup>  
**WSB**  
INSECTICIDE / MITICIDE

### Section 18 EXEMPTION

FOR DISTRIBUTION  
AND USE ONLY IN  
WEST VIRGINIA

EPA File Symbol:

19-WV-\_\_\_\_,

19-WV-\_\_\_\_,

19-WV-\_\_\_\_

EMERGENCY CALLS: 800-331-3148

**ALL APPLICABLE DIRECTIONS, RESTRICTIONS, AND PRECAUTIONS ON THE REGISTERED PRODUCT LABEL FOR BRIGADE WSB (EPA REG. NO. 279-3108) ARE TO BE FOLLOWED**

**THESE DIRECTIONS FOR USE MUST BE IN THE POSSESSION OF THE USER AT THE TIME OF PESTICIDE APPLICATION.**

**This exemption is effective from \_\_\_\_\_, 2019 through \_\_\_\_\_, 2019**

Crop	Pest Controlled	Rate of Application
Apples, Peaches, Nectarines	Brown marmorated stink bug	12.8 - 32 oz/acre (0.08 - 0.2 lb ai/acre)

Directions for Use: Application must be made post-bloom, by ground only as a dilute (minimum of 200 gallons of finished spray per acre) or concentrate (minimum of 50 gallons of finished spray per acre) in sufficient water to provide thorough coverage. Do not apply this product until after petal fall. Thorough coverage is essential to achieve control. One bag = 0.05 lb ai = 8 oz formulated product.

Restrictions: Do not apply more than 32 oz/acre (0.2 lb ai/acre) per application. Do not apply more than 80 oz/acre (0.5 lb ai/acre) per year. Do not make applications less than 30 days apart. Do not graze livestock in treated areas. Do not apply within 14 days of harvest. Do not allow entry into treated areas for 12 hours following application.

Any adverse effects resulting from the use of Brigade WSB under this emergency exemption must be immediately reported to the West Virginia Department of Agriculture & Consumer Services.

label code: DR-4268 060619



An Agricultural  
Sciences Company

FMC Corporation  
2929 Walnut Street  
Philadelphia, PA 19104

Brigade is a FMC Trademark  
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UPL NA Inc.  
Crystal Layton  
630 Freedom Business Center  
Suite 402  
King of Prussia, PA 19406  
Phone: 229-583-3006

July 19, 2019

Via email

Peggy Powell, Ph.D.  
Certification/Compliance Assistance Supervisor  
Pesticide Regulatory Programs  
West Virginia Department of Agriculture  
1900 Kanawha Blvd., East  
Charleston, WV 25305-0190

☎ 304-558-2209

**RE: Section 18 Letter of Support for Bifenture EC and Bifenture 10DF Insecticides**

Dear Dr. Powell,

UPL NA Inc. [formerly United Phosphorus, Inc. (UPI)] fully supports the Section 18 emergency exemption for use of Bifenture EC and Bifenture 10DF Insecticides, containing the active ingredient bifenthrin for control of Brown Marmorated Stink Bug (*Halyomorpha halys*) on apples, peaches and nectarines in West Virginia (and other supporting States). The products we supply are:

- Bifenture® EC Agricultural Insecticide (EPA Reg. No. 70506-57)
- Bifenture® 10DF Insecticide/Miticide (EPA Reg. No. 70506-227)

UPL NA Inc. will be able to supply product to meet the market demand for 2019.

If you have any questions, please feel free to contact me directly at 229-583-3006 or [crystal.layton@upl-ltd.com](mailto:crystal.layton@upl-ltd.com). If you have technical questions about the product and control of Brown Marmorated Stink Bug, please contact Tony Estes at 864-202-7526 or [tony.estes@upl-ltd.com](mailto:tony.estes@upl-ltd.com).

Thank you for your time and consideration.

Sincerely,

A handwritten signature in black ink that reads "Crystal Layton".

Crystal Layton  
Regulatory Manager

Cc Tony Estes

## RESTRICTED USE PESTICIDE

Toxic to fish and aquatic organisms.

For retail sale to and use only by certified applicators, or persons under their direct supervision,  
and only for the uses covered by the certified applicator's certification.

### For distribution and use only in West Virginia under an emergency exemption authorized under Section 18 of FIFRA

All applicable directions, restrictions, and precautions on the EPA registered product labels as well as those on these directions for use must be followed. These directions for use must be in the possession of the user at the time of pesticide application.

**Products:** Bifenture® EC Agricultural Insecticide (EPA Reg. No. 70506-57)  
Bifenture® 10DF Insecticide/Miticide (EPA Reg. No. 70506-227)

**Firm Name:** UPL NA Inc. (United Phosphorus, Inc.)  
630 Freedom Business Center, Suite 402  
King of Prussia, PA 19406

**Crop/Site/Commodity:** Apples, Peaches, Nectarines

**File Symbol:** XX-WV-XX; XX-WV-XX; XX-WV-XX

**Target Pest/Problem:** Brown Marmorated Stink Bug (*Halyomorpha halys*)

**Dosage:** Apply 5.12 – 12.8 fl ozs (0.08-0.20 lbs ai) per acre of **Bifenture EC Agricultural Insecticide** (EPA Reg. No. 70506-57), **OR**  
Apply 12.8 – 32.0 ozs (0.08-0.20 lbs ai) per acre of **Bifenture 10DF Insecticide/Miticide** (EPA Reg. No. 70506-227)  
Use higher rates under heavy insect pressure.

**Dilution Rate:** **By Ground Only:** Apply as a dilute spray (minimum of 200 gallons of finished spray per acre) or concentrate (minimum of 50 gallons of finished spray per acre).  
For best control, thorough coverage is necessary.

#### Frequency/Timing of

**Applications:** Applications should be applied when populations reach locally determined economic thresholds. Consult the cooperative extension service, professional consultants or other qualified authorities to determine appropriate threshold levels for treatment in your area.  
Do not apply more than 32 fl ozs (0.50 lbs ai) of **Bifenture EC Agricultural Insecticide** or 80 ozs (0.50 lbs ai) of **Bifenture 10DF Insecticide/Miticide** per acre per season.  
For all Bifenthrin products used, do not apply more than a total of 0.50 lbs ai/acre per season.  
Apply as necessary to maintain control using a minimum of 30-day spray intervals.  
Do not apply this product until after petal fall.  
Do not graze livestock in treated orchards or cut treated cover crops for feed.

**Restrictions:** This pesticide is extremely toxic to fish and aquatic invertebrates. Use with care when applying in areas adjacent to any body of water. Do not apply directly to water, to areas where surface water is present or to intertidal areas below the high mean water mark. Do not make applications when weather conditions favor drift from treated areas. Drift and runoff from treated areas may be hazardous to aquatic organisms in neighboring areas. Do not contaminate water when disposing of equipment wash waters.

This product is highly toxic to bees exposed directly to direct treatment or residues on blooming crops or weeds. Do not apply this product or allow it to drift to blooming crops or weeds while bees are actively visiting the treatment area.

The use of bifenthrin is prohibited in areas that may result in exposure of endangered species to bifenthrin. Prior to use in a particular county contact the local extension service for procedures and precautions to use to protect endangered species.

**Restricted Entry**

**Interval (REI):** 12 hours

**Pre-Harvest Interval**

**(PHI):** 14 days

**Restricted Use Pesticide:** When used in West Virginia, applications can only be made by certified applicators or by persons under their direct supervision and only for those uses covered by the certified applicators certification.

**This exemption is effective \_\_\_\_\_ through \_\_\_\_\_.**